

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

COALITION FOR ICANN TRANSPARENCY,  
INC.,

Plaintiff,

v.

VERISIGN, INC.,

Defendant.

No. C05-04826 RMW (HRL)

**ORDER GRANTING DEFENDANT'S  
MOTION TO COMPEL PRODUCTION  
OF DOCUMENTS (FIRST SET)**

**[Re: Docket No. 233]**

Defendant Verisign, Inc. (Verisign) moves for an order compelling plaintiff Coalition for ICANN Transparency (CFIT) to produce documents responsive to its first set of requests for production.<sup>1</sup> CFIT opposes the motion. The matter is deemed appropriate for determination without oral argument, and the February 1, 2011 motion hearing is vacated. Civ. L.R. 7-1(b). Upon consideration of the moving and responding papers, this court grants the motion as follows:

1. CFIT asserted a number of General Objections which it, in boilerplate fashion, purported to incorporate into its specific responses—whether or not those objections were actually raised in response to a particular request. This practice obscures the extent to which CFIT is withholding information and does not satisfy the requirement for reasonable

<sup>1</sup> To the extent any discovery requests seek information concerning expiring domain names or Central Listing Service, Verisign's motion is deemed moot. Defendant confirms that it no longer seeks such discovery.

1 particularity under Fed. R. Civ. P. 34(b). Thus, any General Objections which CFIT only  
2 implicitly asserted by incorporation to a specific request are overruled.

3         2.         Requests 2 and 10 essentially seek (a) documents sufficient to identify all of  
4 CFIT's officers, directors, members, supporters, and financial contributors, as well as the nature  
5 of their respective businesses and of any domain name registration services they offer; and  
6 (b) communications between CFIT and others re the 2005 .com Agreement or CFIT's  
7 November 28, 2005 TRO application. The court previously ordered CFIT to produce  
8 documents responsive to Request 2. (*See* Docket No. 131, Feb. 23, 2006 Order at 3). Any  
9 responsive, non-privileged documents CFIT has in its possession, custody or control<sup>2</sup> should  
10 have been produced long ago. CFIT has not presented any cogent argument against the  
11 production of documents responsive to these requests. Accordingly, Verisign's motion as to  
12 these requests is granted.

13         3.         In sum, requests 5 and 7 seek documents that support or undermine (a) CFIT's  
14 market allegations and (b) CFIT's contention that the terms of the 2005 .com registry agreement  
15 are predatory, anticompetitive, or unfair. The court previously ordered CFIT to produce  
16 documents responsive to these requests. (*See* Docket No. 131, Feb. 23, 2006 Order at 5). Any  
17 responsive, non-privileged documents CFIT has in its possession, custody or control should  
18 have been produced long ago. CFIT suggests that the facts pertaining to its allegations and  
19 contentions are "self-evident" (Opp. at 8). However, the point of discovery is to obtain  
20 whatever non-privileged documents and information CFIT has that bears upon its allegations  
21 and contentions. Verisign's motion as to these requests is granted.

22         4.         Request 4 seeks all documents that mention or discuss the actual or potential  
23 impact of the 2005 .com registry agreement on CFIT or any of its members. CFIT suggests that  
24 the facts pertaining to its allegations are "self-evident" or a "matter of math." (Opp. at 8). But,  
25 as discussed above, that does not excuse CFIT from producing all responsive, non-privileged

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26  
27         <sup>2</sup>         CFIT does not challenge Verisign's argument that plaintiff is obliged to  
28 perform a reasonable search to obtain responsive documents from CFIT's members. Indeed,  
as to some requests, CFIT agrees to do just that. Accordingly, the court expects that will  
conduct a reasonable search for responsive documents and information from its members in  
response to all of the discovery requests at issue in Verisign's motions.

documents in its possession, custody, or control. Verisign's motion as to these requests is granted.

5. To the extent it has not already done so, CFIT shall conduct a diligent inquiry and reasonable search and produce all responsive, non-privileged documents in its possession, custody, or control. Production shall be made within 14 days from the date of this order. If, after conducting a diligent inquiry and reasonable search, CFIT finds no responsive, non-privileged documents, it shall confirm that in writing for Verisign within 14 days from the date of this order.

SO ORDERED.

Dated: January 28, 2011



HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE

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